



CITY OF BUFFALO
DEPARTMENT OF LAW

EXHIBIT

A

**STATE OF NEW YORK SUPREME COURT
COUNTY OF ERIE**

AZARIAH BOLDEN

**990 Cambria Street
Buffalo, New York 14206**

Index No.

SUMMONS

JUAN ANGEL SANTOS

**920 Tiff Street, Apartment #312
Buffalo, New York 14220**

**Plaintiff's designate Erie
County as place of trial.**

DREUX CARLSON

**62 Paul Place
Buffalo, New York 14210**

**Venue is based on
Plaintiffs' residences.**

EVAN JUSTEN

**37 Allen Street
Buffalo, New York 14202**

MARIE TAYLOR

**31 Barker Street, Unit #306
Buffalo, New York 14209**

AMAE BROWN

**297 Choate Avenue
Buffalo, New York 14220**

KYLE HERBECK

**86 Edson Street
Buffalo, New York 14210**

BENJAMIN CAIN

**259 Rosedale Boulevard
Buffalo, New York 14226**

JOSEPH ABRAMS III

**332 Auburn Avenue
Buffalo, New York 14213**

Plaintiffs,

vs.

CITY OF BUFFALO

CITY OF BUFFALO POLICE DEPARTMENT

CITY OF BUFFALO POLICE OFFICER DAWN KENT

CITY OF BUFFALO POLICE OFFICER MICHAEL DELONG

CITY OF BUFFALO POLICE OFFICER MICHAEL MARITATO

CITY OF BUFFALO POLICE OFFICER ZACHARY WILLIAMS
CITY OF BUFFALO POLICE OFFICER STEPHEN SCHULZ
CITY OF BUFFALO POLICE OFFICER KEVIN MURPHY
CITY OF BUFFALO POLICE OFFICER PATRICK MEEGAN
CITY OF BUFFALO POLICE OFFICER JOSEPH BEYER
CITY OF BUFFALO JOHN/JANE DOE(S)

Defendants.

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your answer, or, if the Complaint is not served with this Summons, to serve a notice of appearance, on the Plaintiff's attorneys within TWENTY (20) DAYS after the service of this Summons, exclusive of the day of service (or within THIRTY (30) DAYS after the service is complete if this Summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgement will be taken against you by default for the relief demanded in the Complaint.

DATED: Buffalo, New York
February 8, 2021

VANDETTE PENBERTHY LLP

By: s *Brittany L. Penberthy, Esq.*
BRITTANY L. PENBERTHY, ESQ.
Attorneys for Plaintiff
Office and P.O. Address
227 Niagara Street
Buffalo, New York 14201
(716) 803-8400

**STATE OF NEW YORK SUPREME COURT
COUNTY OF ERIE**

AZARIAH BOLDEN

990 Cambria Street

Buffalo, New York 14206

Index No.

COMPLAINT

JUAN ANGEL SANTOS

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CITY OF BUFFALO POLICE OFFICER ZACHARY WILLIAMS
CITY OF BUFFALO POLICE OFFICER STEPHEN SCHULZ
CITY OF BUFFALO POLICE OFFICER KEVIN MURPHY
CITY OF BUFFALO POLICE OFFICER PATRICK MEEGAN
CITY OF BUFFALO POLICE OFFICER JOSEPH BEYER
CITY OF BUFFALO JOHN/JANE DOE(S)

Defendants.

Plaintiffs, above named, by their attorneys VANDETTE PENBERTHY LLP, for their Complaint against the defendants, CITY OF BUFFALO, CITY OF BUFFALO POLICE DEPARTMENT, CITY OF BUFFALO POLICE OFFICERS DAWN KENT, MICHAEL DELONG, MICHAEL MARITATO, ZACHARY WILLIAMS, STEPHEN SCHULZ, KEVIN MURPHY, PATRICK MEEGAN and JOSEPH BEYER, and JOHN/JANE DOE(S) yet to be identified, allege:

FACTS COMMON TO ALL CLAIMS

1. At the time of the incident described herein, the Plaintiff AZARIAH BOLDEN, was and still is a resident of the City of Buffalo, County of Erie and State of New York.
2. At the time of the incident described herein, the Plaintiff JUAN ANGEL SANTOS, was and still is a resident of the City of Buffalo, County of Erie and State of New York.
3. At the time of the incident described herein, the Plaintiff DREUX CARLSON, was and still is a resident of the City of Buffalo, County of Erie and State of New York.
4. At the time of the incident described herein, the Plaintiff EVAN JUSTEN, was and still is a resident of the City of Buffalo, County of Erie and State of New York.
5. At the time of the incident described herein, the Plaintiff MARIE TAYLOR, was and still is a resident of the City of Buffalo, County of Erie and State of New York.

6. At the time of the incident described herein, the Plaintiff AMAE BROWN, was and still is a resident of the City of Buffalo, County of Erie and State of New York.

7. At the time of the incident described herein, the Plaintiff KYLE HERBECK, was and still is a resident of the City of Buffalo, County of Erie and State of New York.

8. At the time of the incident described herein, the Plaintiff BENJAMIN CAIN, was and still is a resident of the City of Buffalo, County of Erie and State of New York.

9. At the time of the incident described herein, the Plaintiff JOSEPH ABRAMS, was and still is a resident of the City of Buffalo, County of Erie and State of New York.

10. Upon information and belief, the CITY OF BUFFALO is a municipal corporation duly organized and existing under and pursuant to the laws of the State of New York.

11. Upon information and belief, the defendant, CITY OF BUFFALO POLICE DEPARTMENT, is a municipal corporation duly organized and existing under and pursuant to the laws of the State of New York.

12. Upon information and belief, POLICE OFFICER DAWN KENT was and still is a resident of the County of Erie and the State of New York.

13. Upon information and belief, the defendant, POLICE OFFICER MICHAEL DELONG was and still is a resident of the County of Erie and the State of New York.

14. Upon information and belief, the defendant, POLICE OFFICER MICHAEL MARITATO was and still is a resident of the County of Erie and the State of New York.

15. Upon information and belief, the defendant, POLICE OFFICER ZACHARY WILLIAMS was and still is a resident of the County of Erie and the State of New York.

16. Upon information and belief, the defendant, POLICE OFFICER STEPHEN SCHULZ was and still is a resident of the County of Erie and the State of New York.

17. Upon information and belief, the defendant, POLICE OFFICER KEVIN MURPHY was and still is a resident of the County of Erie and the State of New York.

18. Upon information and belief, the defendant, POLICE OFFICER PATRICK MEEGAN was and still is a resident of the County of Erie and the State of New York.

19. Upon information and belief, the defendant, POLICE OFFICER JOSEPH BEYER was and still is a resident of the County of Erie and the State of New York.

20. Upon information and belief, the defendant, CITY OF BUFFALO JOHN/JANE DOE(S) was and still is a resident of the County of Erie and the State of New York. Defendants CITY OF BUFFALO JOHN/JANE DOE(S) are sued in their individual and official capacities, and upon information and belief, were off-duty officers, city officials or other individuals otherwise accompanying the aforementioned defendants on the date of the incident.

21. At approximately 2:00 a.m. on June 24, 2020, Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, and numerous others, were gathered at Niagara Square, in the City of Buffalo as part of a multi-day peaceful protest concerning issues of police brutality and racial justice.

22. Upon information and belief, at approximately 2:00 a.m. on June 24, 2020, CITY OF BUFFALO POLICE DEPARTMENT employees, including, but not limited to the aforementioned Defendants, arrived upon individuals gathered, in Niagara Square in the City of Buffalo, County of Erie and State of New York, exercising their First Amendment right to peacefully assemble.

23. Upon information and belief, at all times hereinafter mentioned, the defendants, CITY OF BUFFALO POLICE OFFICERS DAWN KENT, MICHAEL DELONG, MICHAEL MARITATO, ZACHARY WILLIAMS, STEPHEN SCHULZ, KEVIN MURPHY, PATRICK

MEEGAN and JOSEPH BEYER, and JOHN/JANE DOE(S), yet to be identified, were employed by the defendants CITY OF BUFFALO and/or the CITY OF BUFFALO POLICE DEPARTMENT and engaged in their course of employment on or about June 24, 2020, and/or at all times thereafter involving the prosecution, criminal proceedings, and or continuation of criminal proceedings against Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, EVAN JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III.

24. Upon information and belief, on or about June 24, 2020, at approximately 2:00 a.m., CITY OF BUFFALO POLICE OFFICERS DAWN KENT, MICHAEL DELONG, MICHAEL MARITATO, ZACHARY WILLIAMS, STEPHEN SCHULZ, KEVIN MURPHY, PATRICK MEEGAN and JOSEPH BEYER, and JOHN/JANE DOE(S), did enter Niagara Square in the City of Buffalo, County of Erie and State of New York after being ordered by Chief DAWN KENT to make arrests of the protestors who remained in Niagara Square at that time.

25. On or about June 24, 2020, Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, EVAN JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, were each gathered in Niagara Square exercising their First Amendment right to peacefully assemble.

26. While gathered in Niagara Square on or about June 24, 2020, Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, EVAN JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III were unlawfully and falsely arrested for obstruction of governmental administration, and for violating two different local ordinances, laws or regulations (provisions 309-15[A] and 309-25[A]) as a result of the order given by Chief DAWN KENT.

27. Upon information and belief, the aforementioned unlawful and false arrests of the Plaintiffs, AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, EVAN JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, were made by defendants CITY OF BUFFALO POLICE OFFICERS DAWN KENT, MICHAEL DELONG, MICHAEL MARITATO, ZACHARY WILLIAMS, STEPHEN SCHULZ, KEVIN MURPHY, PATRICK MEEGAN and JOSEPH BEYER, and JOHN/JANE DOE(S).

28. Upon information and belief, defendants CITY OF BUFFALO POLICE OFFICERS DAWN KENT, MICHAEL DELONG, MICHAEL MARITATO, ZACHARY WILLIAMS, STEPHEN SCHULZ, KEVIN MURPHY, PATRICK MEEGAN and JOSEPH BEYER, and JOHN/JANE DOE(S), did arrest Plaintiffs based upon the false allegations and complaints of defendants CITY OF BUFFALO and CITY OF BUFFALO POLICE DEPARTMENT.

29. Defendants CITY OF BUFFALO POLICE OFFICERS DAWN KENT, MICHAEL DELONG, MICHAEL MARITATO, ZACHARY WILLIAMS, STEPHEN SCHULZ, KEVIN MURPHY, PATRICK MEEGAN and JOSEPH BEYER, and JOHN/JANE DOE(S), did participate in the investigation and criminal prosecution of the Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, EVAN JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, which originated from and were based on the wrongful, deceptive, misleading, false and malicious statements, including but not limited to those of the defendants CITY OF BUFFALO and CITY OF BUFFALO POLICE DEPARTMENT.

30. As a result of the false, malicious, and otherwise unprivileged arrest of the Plaintiffs, Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, EVAN

JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, were each charged by Information/Complaint with violations of two City of Buffalo ordinances, laws or regulations, sections 309-15[A], sleeping in “any park or park approach,” and 309-25[A], remaining in a park, playground, or public school ground beyond open hours, a non-criminal offense punishable as a “Class C fine in the amount of \$52.50.”

31. Upon information and belief, Niagara Square is neither a “park,” “park approach,” “playground,” nor a “public school ground” as defined in the Buffalo City Code, such that the sections 309-15[A] and 309-25[A] would apply to Plaintiffs and prohibit their otherwise protected right of assembly at Niagara Square.

32. Subsequently, in Buffalo City Court, all of the Informations/Complaints described above were dismissed for facial insufficiency in Plaintiffs’ AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, EVAN JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, favor.

33. Upon information and belief, CITY OF BUFFALO, CITY OF BUFFALO POLICE DEPARTMENT, CITY OF BUFFALO POLICE OFFICERS DAWN KENT, MICHAEL DELONG, MICHAEL MARITATO, ZACHARY WILLIAMS, STEPHEN SCHULZ, KEVIN MURPHY, PATRICK MEEGAN and JOSEPH BEYER, and JOHN/JANE DOE(S) together unlawfully conspired and agreed to participate in the above unlawful acts which violated the First, Fourth, and Fourteenth Amendment rights of the several Plaintiffs by subjecting them to false arrests, malicious prosecution, and depriving them of their right to protest. The actions above-described were committed by CITY OF BUFFALO, CITY OF BUFFALO POLICE DEPARTMENT, CITY OF BUFFALO POLICE OFFICERS DAWN KENT, MICHAEL DELONG, MICHAEL MARITATO, ZACHARY WILLIAMS, STEPHEN SCHULZ, KEVIN

MURPHY, PATRICK MEEGAN and JOSEPH BEYER, and JOHN/JANE DOE(S) in furtherance of depriving and violating Plaintiffs First, Fourth, and Fourteenth Amendment rights.

34. On or about August 27, 2020, within 90 days of the events described above, Plaintiff, AZARIAH BOLDEN, by and through counsel, served or caused to be served their Notice of Claim upon the CITY OF BUFFALO and CITY OF BUFFALO POLICE DEPARTMENT, by serving The City of Buffalo Department of Law.

35. On or about August 27, 2020, within 90 days of the events described above, Plaintiff, JUAN ANGEL SANTOS, by and through counsel, served or caused to be served their Notice of Claim upon the CITY OF BUFFALO and CITY OF BUFFALO POLICE DEPARTMENT, by serving The City of Buffalo Department of Law.

36. On or about September 11, 2020, within 90 days of the events described above, Plaintiff, DREUX CARLSON, by and through counsel, served or caused to be served their Notice of Claim upon the CITY OF BUFFALO and CITY OF BUFFALO POLICE DEPARTMENT, by serving Sarah Miller at The City of Buffalo City Hall.

37. On or about August 27, 2020, within 90 days of the events described above, Plaintiff, MARIE TAYLOR, by and through counsel, served or caused to be served their Notice of Claim upon the CITY OF BUFFALO and CITY OF BUFFALO POLICE DEPARTMENT, by serving The City of Buffalo Department of Law.

38. On or about August 27, 2020, within 90 days of the events described above, Plaintiff, AMAE BROWN, by and through counsel, served or caused to be served their Notice of Claim upon the CITY OF BUFFALO and CITY OF BUFFALO POLICE DEPARTMENT, by serving The City of Buffalo Department of Law.

39. On or about August 27, 2020, within 90 days of the events described above, Plaintiff, KYLE HERBECK, by and through counsel, served or caused to be served their Notice of Claim upon the CITY OF BUFFALO and CITY OF BUFFALO POLICE DEPARTMENT, by serving The City of Buffalo Department of Law.

40. On or about August 27, 2020, within 90 days of the events described above, Plaintiff, BENJAMIN CAIN, by and through counsel, served or caused to be served their Notice of Claim upon the CITY OF BUFFALO and CITY OF BUFFALO POLICE DEPARTMENT, by serving The City of Buffalo Department of Law.

41. On or about August 27, 2020, within 90 days of the events described above, Plaintiff, JOSEPH ABRAMS III, by and through counsel, served or caused to be served their Notice of Claim upon the CITY OF BUFFALO and CITY OF BUFFALO POLICE DEPARTMENT, by serving The City of Buffalo Department of Law.

42. At least thirty days elapsed since the service of each of the Notices of Claim. To date, defendants have neglected to or refused to adjust or satisfy any of the claims.

**AS AND FOR A FIRST CAUSE OF ACTION,
MALICIOUS PROSECUTION, AGAINST ALL DEFENDANTS, ABOVE-NAMED,
THE PLAINTIFFS, AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON,
MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, AND
JOSEPH ABRAMS III, ALLEGE:**

43. Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, repeat and incorporate the preceding paragraphs "1" through "42" with the same force and effect as if fully set forth herein.

44. Defendants CITY OF BUFFALO and CITY OF BUFFALO POLICE DEPARTMENT CITY OF BUFFALO POLICE OFFICERS DAWN KENT, MICHAEL DELONG, MICHAEL

MARITATO, ZACHARY WILLIAMS, STEPHEN SCHULZ, KEVIN MURPHY, PATRICK MEEGAN and JOSEPH BEYER, and JOHN/JANE DOE(S), did cause the commencement of or continuation of and otherwise participate in a judicial proceeding against the Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, for City of Buffalo municipal code violations of sections 309-15[A] and 309-25[A], and said Defendants did wrongfully and maliciously complain against, initiate the judicial proceedings or participate therein and/or continue the action in Buffalo City Court against the Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, where the proceedings lacked probable cause and merit, and the said code provisions were entirely inapplicable to these Plaintiffs.

45. The judicial proceedings did terminate in favor of the Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III via a dismissal.

46. That by reason of the foregoing, Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, have been caused to sustain injuries and losses, all to each of his and her damage in a sum of money exceeding the monetary jurisdiction of all lower Courts.

**AS AND FOR A SECOND CAUSE OF ACTION,
FALSE ARREST, AGAINST DEFENDANTS, ABOVE-NAMED,
THE PLAINTIFFS, AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON,
MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, AND
JOSEPH ABRAMS III, ALLEGE:**

47. Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, repeats and incorporates the preceding paragraphs "1" through "46" with the same force and effect as if fully set forth herein.

48. The above-named defendants, CITY OF BUFFALO POLICE OFFICERS DAWN KENT, MICHAEL DELONG, MICHAEL MARITATO, ZACHARY WILLIAMS, STEPHEN SCHULZ, KEVIN MURPHY, PATRICK MEEGAN and JOSEPH BEYER, and JOHN/JANE DOE(S) jointly and/or severally, intended to confine the Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III; none of the Plaintiffs consented to this confinement; each and every Plaintiff was conscious of this confinement, and the confinement was not otherwise privileged.

49. That by reason of the foregoing, Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, have been caused to sustain injuries and losses, including special damages, all to each of his and her damage in a sum of money exceeding the monetary jurisdiction of all lower Courts.

**AS AND FOR A THIRD CAUSE OF ACTION,
ABUSE OF PROCESS, AGAINST DEFENDANTS, ABOVE-NAMED,
THE PLAINTIFFS, AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON,
MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, AND
JOSEPH ABRAMS III, ALLEGE:**

50. Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, repeat and incorporate the preceding paragraphs "1" through "49" with the same force and effect as if fully set forth herein.

51. Defendants, CITY OF BUFFALO, CITY OF BUFFALO POLICE DEPARTMENT, CITY OF BUFFALO POLICE OFFICERS DAWN KENT, MICHAEL DELONG, MICHAEL MARITATO, ZACHARY WILLIAMS, STEPHEN SCHULZ, KEVIN MURPHY, PATRICK MEEGAN and JOSEPH BEYER, and JOHN/JANE DOE(S) did, without excuse and justification, intentionally, knowingly, falsely, and maliciously complain against the Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, thereby initiating a regularly-issued process and proceeding against the Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, where the defendants CITY OF BUFFALO, CITY OF BUFFALO POLICE DEPARTMENT, CITY OF BUFFALO POLICE OFFICERS DAWN KENT, MICHAEL DELONG, MICHAEL MARITATO, ZACHARY WILLIAMS, STEPHEN SCHULZ, KEVIN MURPHY, PATRICK MEEGAN and JOSEPH BEYER, and JOHN/JANE DOE(S) were motivated by an intent to to do harm to the Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, without excuse or

justification, and using the process in a perverted manner to obtain a collateral objective, i.e., to get the Plaintiffs out of Niagara Square, and terminate their lawful and protected speech.

52. That by reason of the foregoing, Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, have been caused to sustain injuries and losses, including special damages, all to each of his and her damage in a sum of money exceeding the monetary jurisdiction of all lower Courts.

**AS AND FOR A FOURTH CAUSE OF ACTION,
MALICIOUS PROSECUTION UNDER COLOR OF STATE LAW PURSUANT TO 42
U.S.C. § 1983, IN VIOLATION OF THE PLAINTIFFS' FOURTH AMENDMENT
RIGHTS, AGAINST DEFENDANTS, ABOVE-NAMED,
THE PLAINTIFFS, AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON,
EVAN JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN
CAIN, AND JOSEPH ABRAMS III, ALLEGE:**

53. Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, EVAN JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, repeat and incorporate the preceding paragraphs "1" through "52" with the same force and effect as if fully set forth herein.

54. Defendants CITY OF BUFFALO, CITY OF BUFFALO POLICE DEPARTMENT, CITY OF BUFFALO POLICE OFFICERS DAWN KENT, MICHAEL DELONG, MICHAEL MARITATO, ZACHARY WILLIAMS, STEPHEN SCHULZ, KEVIN MURPHY, PATRICK MEEGAN and JOSEPH BEYER, and JOHN/JANE DOE(S), did cause the commencement of or continuation of and otherwise participate in a judicial proceeding against the Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, for City of Buffalo municipal code violations of sections 309-15[A] and 309-25[A], and said Defendants did wrongfully and

maliciously complain against, initiate the judicial proceedings or participate therein and/or continue the action in Buffalo City Court against the Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, EVAN JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, where the proceedings lacked probable cause and merit, and the said code provisions were entirely inapplicable to these Plaintiffs.

55. The judicial proceedings did terminate in favor of the Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, EVAN JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III via a dismissal.

56. Each and every of the individual defendants named herein at all times mentioned in this Complaint were state actors acting under color of state law.

57. All of the above conduct by the said defendants was committed in violation of each of the Plaintiffs' Fourth Amendment rights to be free from the same.

58. That by reason of the foregoing, Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, EVAN JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, have been caused to sustain injuries and losses, all to each of his and her damage in a sum of money exceeding the monetary jurisdiction of all lower Courts.

**AS AND FOR A FIFTH CAUSE OF ACTION,
FALSE ARREST UNDER COLOR OF STATE LAW PURSUANT TO 42 U.S.C. § 1983,
IN VIOLATION OF THE PLAINTIFFS' FOURTH AND FOURTEENTH AMENDMENT
RIGHTS, AGAINST DEFENDANTS, ABOVE-NAMED,
THE PLAINTIFFS, AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON,
EVAN JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN
CAIN, AND JOSEPH ABRAMS III, ALLEGE:**

59. Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, EVAN JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, repeat and incorporate the preceding paragraphs "1" through "58" with the same force and effect as if fully set forth herein.

60. Defendants, CITY OF BUFFALO, CITY OF BUFFALO POLICE DEPARTEMNT, CITY OF BUFFALO POLICE OFFICERS DAWN KENT, MICHAEL DELONG, MICHAEL MARITATO, ZACHARY WILLIAMS, STEPHEN SCHULZ, KEVIN MURPHY, PATRICK MEEGAN and JOSEPH BEYER, and JOHN/JANE DOE(S) did, without excuse and justification, intentionally, knowingly, falsely, and maliciously complain against the Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, EVAN JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, thereby causing and or initiating a regularly-issued process and proceeding against the Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, EVAN JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, where the defendants CITY OF BUFFALO POLICE OFFICERS DAWN KENT, MICHAEL DELONG, MICHAEL MARITATO, ZACHARY WILLIAMS, STEPHEN SCHULZ, KEVIN MURPHY, PATRICK MEEGAN and JOSEPH BEYER, and JOHN/JANE DOE(S) were motivated by an intent to do harm to the Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, EVAN JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE

HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, without excuse or justification, and using the process in a perverted manner to obtain a collateral objective, i.e., to get the Plaintiffs out of Niagara Square, and terminate their lawful and protected speech, all done in violation of each of the Plaintiffs' Fourth and Fourteenth Amendment rights to be free from the same.

61. At all times, the individual defendants herein were state actors acting under color of state law.

62. That by reason of the foregoing, Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, EVAN JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, have been caused to sustain injuries and losses, including special damages, all to each of his and her damage in a sum of money exceeding the monetary jurisdiction of all lower Courts.

**AS AND FOR A SIXTH CAUSE OF ACTION,
ABUSE OF PROCESS UNDER COLOR OF STATE LAW PURSUANT TO 42 U.S.C. §
1983, IN VIOLATION OF THE PLAINTIFFS' FOURTH AND FOURTEENTH
AMENDMENT RIGHTS, AGAINST DEFENDANTS, ABOVE-NAMED,
THE PLAINTIFFS, AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON,
EVAN JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN
CAIN, AND JOSEPH ABRAMS III, ALLEGE:**

63. Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, EVAN JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, repeat and incorporate the preceding paragraphs "1" through "62" with the same force and effect as if fully set forth herein.

64. Defendants, CITY OF BUFFALO, CITY OF BUFFALO POLICE DEPARTMENT, CITY OF BUFFALO POLICE OFFICERS DAWN KENT, MICHAEL DELONG, MICHAEL MARITATO, ZACHARY WILLIAMS, STEPHEN SCHULZ, KEVIN MURPHY, PATRICK MEEGAN and JOSEPH BEYER, and JOHN/JANE DOE(S) did, without

excuse and justification, intentionally, knowingly, falsely, and maliciously complain against the Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, EVAN JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, thereby initiating a regularly-issued process and proceeding against the Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, EVAN JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, where the defendants, including, CITY OF BUFFALO POLICE OFFICERS DAWN KENT, MICHAEL DELONG, MICHAEL MARITATO, ZACHARY WILLIAMS, STEPHEN SCHULZ, KEVIN MURPHY, PATRICK MEEGAN and JOSEPH BEYER, and JOHN/JANE DOE(S) were motivated by an intent to do harm to the Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, EVAN JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, without excuse or justification, and using the process in a perverted manner to obtain a collateral objective, i.e., to get the Plaintiffs out of Niagara Square, and terminate their lawful and protected speech, all done in violations of the Plaintiffs' Fourth and Fourteenth Amendment rights to be free from the same.

65. At all times, the individual defendants herein were state actors acting under color of state law.

66. That by reason of the foregoing, Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, EVAN JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, have been caused to sustain injuries and losses, including special damages, all to each of his and her damage in a sum of money exceeding the monetary jurisdiction of all lower Courts.

**AS AND FOR A SEVENTH CAUSE OF ACTION, NEGLIGENCE,
AGAINST DEFENDANTS, ABOVE-NAMED,
THE PLAINTIFFS, AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON,
MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, AND
JOSEPH ABRAMS III, ALLEGE:**

67. Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, repeats and incorporates the preceding paragraphs “1” through “66” with the same force and effect as if fully set forth herein.

68. Defendants, CITY OF BUFFALO, CITY OF BUFFALO POLICE DEPARTMENT, CITY OF BUFFALO POLICE OFFICERS DAWN KENT, MICHAEL DELONG, MICHAEL MARITATO, ZACHARY WILLIAMS, STEPHEN SCHULZ, KEVIN MURPHY, PATRICK MEEGAN and JOSEPH BEYER, and JOHN/JANE DOE(S), owed a duty of care to the Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III’s person, a duty that Defendants above-named, did breach when they falsely, unlawfully and maliciously arrested and prosecuted the Plaintiffs, causing the Plaintiffs’ injuries.

69. That by reason of the foregoing, Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, have been caused to sustain injuries and losses, including special damages, all to each of his and her damage in a sum of money exceeding the monetary jurisdiction of all lower Courts.

**AS AND FOR AN EIGHTH CAUSE OF ACTION, NEGLIGENT TRAINING, HIRING,
SUPERVISION, DISCIPLINE AND RETENTION,
AGAINST DEFENDANTS CITY OF BUFFALO AND CITY OF BUFFALO POLICE
DEPARTMENT, THE PLAINTIFFS, AZARIAH BOLDEN, JUAN ANGEL SANTOS,
DREUX CARLSON, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK,
BENJAMIN CAIN, AND JOSEPH ABRAMS III, ALLEGE:**

70. Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, repeats and incorporates the preceding paragraphs "1" through "69" with the same force and effect as if fully set forth herein.

71. Upon information and belief, defendants CITY OF BUFFALO and CITY OF BUFFALO POLICE DEPARTMENT, were in an employer-employee relationship with defendants CITY OF BUFFALO POLICE OFFICERS DAWN KENT, MICHAEL DELONG, MICHAEL MARITATO, ZACHARY WILLIAMS, STEPHEN SCHULZ, KEVIN MURPHY, PATRICK MEEGAN and JOSEPH BEYER, and JOHN/JANE DOE(S); defendants CITY OF BUFFALO and CITY OF BUFFALO POLICE DEPARTMENT knew or should have known of the defendants CITY OF BUFFALO POLICE OFFICERS DAWN KENT, MICHAEL DELONG, MICHAEL MARITATO, ZACHARY WILLIAMS, STEPHEN SCHULZ, KEVIN MURPHY, PATRICK MEEGAN and JOSEPH BEYER, and JOHN/JANE DOE(S)s' propensity for the conduct which caused the injuries complained of herein, and; the torts and constitutional violations above-described were committed by defendants CITY OF BUFFALO POLICE OFFICERS DAWN KENT, MICHAEL DELONG, MICHAEL MARITATO, ZACHARY WILLIAMS, STEPHEN SCHULZ, KEVIN MURPHY, PATRICK MEEGAN and JOSEPH BEYER, and JOHN/JANE DOE(S), while working and engaged in their functions as police officers for defendants CITY OF BUFFALO and CITY OF BUFFALO POLICE DEPARTMENT.

72. Upon information and belief, defendants CITY OF BUFFALO and CITY OF

BUFFALO POLICE DEPARTMENT placed defendants, officer-employees CITY OF BUFFALO POLICE OFFICERS DAWN KENT, MICHAEL DELONG, MICHAEL MARITATO, ZACHARY WILLIAMS, STEPHEN SCHULZ, KEVIN MURPHY, PATRICK MEEGAN and JOSEPH BEYER, and JOHN/JANE DOE(S), in a position to cause foreseeable harm to Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, harm which the Plaintiffs most probably would have been spared had defendants CITY OF BUFFALO and CITY OF BUFFALO POLICE DEPARTMENT, taken reasonable care in supervising, training, hiring, disciplining and retaining CITY OF BUFFALO POLICE OFFICERS DAWN KENT, MICHAEL DELONG, MICHAEL MARITATO, ZACHARY WILLIAMS, STEPHEN SCHULZ, KEVIN MURPHY, PATRICK MEEGAN and JOSEPH BEYER, and JOHN/JANE DOE(S).

73. That by reason of the foregoing, Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, have been caused to sustain injuries and losses, including special damages, all to each of his and her damage in a sum of money exceeding the monetary jurisdiction of all lower Courts.

AS AND FOR A NINTH CAUSE OF ACTION, FIRST AMENDMENT RETALIATION, UNDER 42 U.S.C. § 1983, AGAINST ALL DEFENDANTS, THE PLAINTIFFS, AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, EVAN JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, AND JOSEPH ABRAMS III, ALLEGE:

74. Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, EVAN JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN,

and JOSEPH ABRAMS III, repeats and incorporates the preceding paragraphs “1” through “73” with the same force and effect as if fully set forth herein.

75. The Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, EVAN JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III each had an interest protected by the First Amendment, i.e., the right to gather, peacefully assemble, and protest issues of racial justice and police brutality at Niagara Square, in the City of Buffalo.

76. The Defendants’ actions, above-described, were motivated by or substantially caused by the exercise of the Plaintiffs’ rights to gather, peacefully assemble, and protest issues of racial justice and police brutality at Niagara Square, in the City of Buffalo.

77. That by reason of the foregoing, Plaintiffs AZARIAH BOLDEN, JUAN ANGEL SANTOS, DREUX CARLSON, EVAN JUSTEN, MARIE TAYLOR, AMAE BROWN, KYLE HERBECK, BENJAMIN CAIN, and JOSEPH ABRAMS III, have been caused to sustain injuries and losses, including special damages, all to each of his and her damage in a sum of money exceeding the monetary jurisdiction of all lower Courts.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief as follows:

1. For general damages in a sum according to proof;
2. For special damages in a sum according to proof;
3. For punitive damages against the individual defendants in a sum according to proof;
4. For reasonable attorneys’ fees in accordance with 42 U.S.C. § 1988;
5. For any and all statutory costs allowed by law;
6. For costs of suit incurred herein; and
7. For such other and further relief as the Court may deem just and proper.

FILED: ERIE COUNTY CLERK 02/08/2021 03:01 PM

INDEX NO. 801598/2021

NYSCEF DOC. NO. 1

RECEIVED NYSCEF: 02/08/2021

DATED: Buffalo, New York
February 8, 2021

VANDETTE PENBERTHY LLP

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